

# 1989 and me

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Thirty years ago around this time I was living in a village in Upper Bavaria, already in possession of a driver's license and a few months shy of my high school diploma, and had a whale of a time. My friends were mostly musicians and anti-nuclear hippies, we climbed around in the mountains and rode down torrents in kayaks, in terms of school the worst was behind us, and my life was as carefree as that of any 19-year-old could ever be. My big sister already went to university in Berlin, and when she called one night and yelled excitedly that the Wall might come down any minute now, my parents and I thought that was a wild exaggeration. What happened in the GDR in the fall of 1989 was mostly television news for us. Foreign policy. As exciting as it was to read about those dissidents and protesters in the newspaper, I never had the feeling that this had anything to do with me.

The country where I had just been entitled to vote for the first time (European elections in June 1989, 22.1% for the far right *Republikaner* in Rosenheim where I went to school every day!) did not feel incomplete to me. It never occurred to me that it might lack a part. The only people who said otherwise were old men in loden suits whom no one I knew took seriously. When I visited my sister in Berlin in the summer of 1990 and we went to explore "the East", it was trip to a German-speaking foreign country, full of oddly bedraggled towns and oddly bedraggled people whom I gazed at like a cruise tourist on shore leave taking in all those picturesque natives. In Naumburg I ate a sausage and made fun of the thin orangey ketchup sauce that was poured over it. In Weimar we went to a youth club and were surprised that everyone just sat there, sad and silent, except for one black-haired girl who was dancing with herself all alone in the middle of the empty dance floor. Later, we talked to her, and she took us to her father's apartment, who was a collector of antique musical instruments, and served us schnapps. She had moved to the Ruhr area a while ago, it turned out. She was only visiting herself.

I was kind of okay with the idea of German reunification. It appeared to be incredibly important to a lot of people, and who was I with my 19 years to contradict? But it wasn't what I had ordered for myself. The idea of embracing the East Germans as my lost brothers and sisters in national fate was completely alien to me. And I was too young to see the whole reunification thing as a career opportunity, as many other West Germans did. The greatest change in 1989 for me was the way my inner map of Europe expanded: a whole direction had been added to it. Before my world had ended towards the East, now it went on in that direction in a vaguely exciting way. My best friend went to Moscow for a few months to learn Russian and brought his blonde Russian teacher home when he returned. I stayed in Munich and giggled along with the whole subway car when the conductor's announcements suddenly came in a thick Saxon dialect. The one thing I wasn't was curious. I wouldn't even have known what to be curious about. The East was coming to us anyway.

## Good for them

At law school in Munich, my professors weren't that curious either. Not at all. Most of them were stern *Staatsrechtslehrer* of distinctly conservative leaning, held in high esteem by the German public as authoritative interpreters of the constitution, and they were rather disinclined to share their authority with a bunch of hairy East German civil rights activists who not only lacked all academic credit but, even worse, also harboured some rather disquieting ideas, like a joint constitutional restart of reunited Germany with a solemn referendum to mark the occasion and such socialist nonsense. Look, the *Staatsrechtslehrer* consensus was, we appreciate what you did in toppling the communist rule, but believe us, it's best if the professionals take it from here. We already have a rather well-functioning democratic constitution in place, you see, so why don't you be a good chap and just simply adopt that as your's from now on. Which is what happened. The new *Länder* of East Germany acceded to the *Grundgesetz*, and as a consolation prize a "Joint Constitutional Reform Commission of the *Bundestag* and *Bundesrat*" was installed, evidently to very little avail. The Federal Republic of 1989 remained constitutionally pretty much identical to the Federal Republic of 1999, 2009 and 2019. The East came to us. Good for them. Meanwhile, we West Germans continued speaking in the first person plural just like before, only including the East Germans from then on.

This was I in 1989 and throughout the 90s and after: a tolerant, non-curious West German guy. Those were the halcyon days of tolerance in general. Women, gays, foreigners – we modern white straight men were all tolerant like crazy in those days. Never would we have excluded any poor, oppressed minorities from our modern white straight male world, and our tolerance applied to the East Germans, too, of course. To the "Ossis", as we quite endearingly liked to call them. We were not Nazis after all (unlike, harrumph, certain people). Well, we made jokes about them, as we did about gays and women. But we didn't mean any offense, did we? Just because we were tolerant didn't mean that we'd stop finding them funny, right?

Thirty years have passed. Soon I'll be fifty. I have a great job and a great family, and I have luckily inherited enough to buy myself a little house in rural East German Uckermark. I'm loving it, and it's also quite beneficial for this depopulated and aging region, I'm told. A bit of life returning to those squalid villages. Both sides profit, right? I don't know much about the people who used to live there and have moved away, to the West most likely. They didn't inherit, I guess. It's interesting how after 30 years one still can distinguish East and West Germany by the [size of inheritances](#). But I do love my place in the Uckermark, and while I am on fairly good terms with the original villagers, or those who are left of them, I spend much more time with my fellow Berliners who have been buying up their cottages in droves in recent years to enjoy the country life in peace and harmony and rubber boots and outdoor jackets and white straight rich West German people inside them, pretty much like myself.

Oh, if only I had been a bit more curious. Just a bit more willing to imagine what we must have looked like for those Naumburgers and Weimarers when we ordered their sausages and entered their youth clubs. Just a bit more critical of my pompous

old Munich *Staatsrechtslehrer*, among them people like Rupert Scholz and Hans-Jürgen Papier who today are drivelling about East German Angela Merkel's breach of the constitution, sweet Jesus! Just a bit more open to the possibility that practical survival experience in the absence of the rule of law might not only demand some respect from a 19-year-old from Rosenheim, but might actually be downright relevant again one day. Just a bit less complacent. Just a bit less smug. Just a bit less privileged.

But I was not, I'm afraid.

## God help us

In the East German state of **Thuringia** last weekend, a little over a quarter voted for the Left and a little less than a quarter voted for the far right AfD, so in total there is now no majority against both. Paul Ziemeck, the utterly non-curious General Secretary of the CDU, has published an [op-ed in the FAZ](#) in which he detects that the Left has an "idea of man" (*Menschenbild*) which – God help us! – has ties to "socialist and communist traditions of equality", which is why the CDU apparently must avoid any association with them at the risk of eternal damnation. As far as the Right is concerned, there are quite a few places now, like in Spain or in Italy, where the conservatives have shown no qualms whatsoever about sacrificing their Christian *Menschenbild* to a regional alliance with authoritarian right-wing populists. And also in Thuringia some apparently find a CDU/AfD cooperation on a confidence and support basis not altogether unthinkable. We wish the Christian Democrats all the divine succor they can get and in the meantime must rely on the fact that the Thuringian constitution allows the incumbent Bodo Ramelow, along with all his socialist and communist traditions of equality, to stay in office for a theoretically indefinite stretch of time until a majority in parliament is found. [ANNA LEISNER-EGENSPERGER](#) takes a closer look at the constitutional situation and is ultimately glad that it gives the Thuringian Parliament all the time it needs to sort this out.

The explosive power of regional elections has also become apparent in **Umbria**, Italy, where after decades of left-wing dominance an alliance of conservatives, right-wing extremists and right-wing populists has now conquered power. [FRANCESCO PALERMO](#) sheds light on the background and what the constitutional reforms of the regions from 20 years ago have to do with it.

[ROHAN SINHA](#) joins the debate about the Spanish Supreme Court's ruling against the **Catalan** secessionist leaders and examines whether it meets the standards of the European Convention on Human Rights.

[ANKIT KAUSHIK](#) explains the **Indian** government's handling of Kashmir and the constitution in a Carl Schmitt state of emergency framework.

[SUMUDU ATAPATTU](#) believes that the time has come for a human right to a healthy environment.

In **Germany**, the committee about children's rights in the Grundgesetz has presented its final report. [ANNA LEISNER-EGENSPERGER](#) is unconvinced that doing more than current constitutional doctrine already does would be a good idea.

**Great Britain** is still a member of the EU, and Boris Johnson is to be congratulated for not lying dead in a ditch for the time being but instead being allowed to waste the Brexit extension until January 2020 on an election campaign of probably unprecedented ugliness at the end of which we may find ourselves in pretty much the same situation we are already in, with a fragmented parliament unable to agree on anything. But who knows, perhaps everything will be fine in the end. As far as future relations with the EU are concerned, Article 50 of the EU Treaty, as interpreted by [ANDREAS EKA](#), provides no legal basis at all for its regulation, in which case Johnson's deal and the regulation on the Northern Ireland border would be contrary to European law.

On the border with Austria, **Germany** detains persons who are not allowed to enter the country and who are not immediately sent back. [CONSTANTIN HRUSCHKA](#) argues that there is no legal basis for this, taking into account the case law of the European Court of Justice.

## Elsewhere

Under the wonderful title 'Life's a ditch – and then you lie', [STEVE PEERS](#) analyses the consequences of the renewed extension of the Brexit deadline in the **United Kingdom**. [ANNE TWOMEY](#) cautions against the codification of royal prerogatives. [KENNETH ARMSTRONG](#) has little trust in Labour's announcement to hold a second Brexit referendum within six months.

[DIONYSSIS G. DIMITRAKOPOULOS](#) and [ARGYRIS G. PASSAS](#) appreciate the success of **Greece** in depoliticising the tax collection authority under the Troika rule.

[PÉTRA BARD](#) and [LAURENT PECH](#) give an overview of the autocratic constitutional reality in **Hungary** today.

[CARMEN MONTERO FERRER](#) summarizes the legal implications of the exhumation of ex-dictator Francisco Franco in **Spain**.

[NEIL EGGLESTON](#) points to a possibly decisive procedural clause in the **US** House of Representatives' decision on the impeachment proceedings against President Trump.

In **India**, S.A. Bobde will become the Chief Justice which prompts [GAUTAM BHATIA](#) to shed light on the Supreme Court's inglorious role in the departure of its predecessor.

[JUAN C. HERRERA](#) examines why the integration of **Latin America** is stalling while the possibility of a Latin American spring arises.

According to [PAMELA FIGUEIROA](#), **Chile** needs a new constitution, and according to [SERGIO VERDUGO](#), it needs at least a change in the presidential system of government.

That's all for this week. Have you noticed the new design? I hope you like it and it makes this often quite lengthy piece of text a bit easier to digest.

In which case, if you'll forgive my insistence, I would be immensely grateful if you'd consider giving your [support](#).

All the best,

Max Steinbeis

